

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LINDA STANGER and,)
RICHARD STANGER)
Plaintiffs,)
vs.) Case No. 4:04CV839 HEA
SMITH & NEPHEW, INC., et al.,)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on plaintiffs' Fourth Motion to Compel defendant Smith & Nephew to Produce Documents, [Doc. # 94].

After consideration of the pleadings filed with respect to this motion, the following shall apply:

Plaintiffs' First Request to Produce No. 17 and Second Request to Produce No.'s 1 and 2: Defendant has agreed to produce the requested documents, subject to 21 C.F.R. § 20.63(f). Said documents shall therefore be produced within 7 days from the date of this Order, in the event that production has not already occurred.

Plaintiffs' First Request to Produce No. 5: Defendant has agreed to produce an insert similar to the Genesis I medium left 15 mm articular insert for inspection. Said insert shall be produced within 7 days from the date of this Order, in the event that production has not already occurred.

Plaintiffs' Seventh Request to Produce No. 13: Defendant opposes disclosure of this production of Complaint Record 1999000673 because of the prohibition contained in 21 C.F.R. § 20.63(f), in that it identifies the name of the surgeon and indicates that “[s]urgeon would like to know if this is due to sterilization.” Clearly, this record contains the specific information which Section 20.63(f) covers and is therefore not subject to production.

Plaintiffs' Seventh Request to Produce No. 15: Defendant has agreed to produce any inventory of returned similar tibial inserts identified in STANGER0307 to the extent that documentation is available. In the event that defendants have not yet produce said documentation, they shall produce it within 7 days from the date of this Order.

Plaintiffs' Ninth Request to Produce No. 1: Defendant has agreed to produce minutes from the meetings of its Board of Directors in which UHMWPE was discussed, subject to limitations to which plaintiffs agree. In the event that production has not occurred, defendant shall produce the minutes within 7 days from the date of this Order.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' Motion to Compel, [Doc. 94],

is granted in part and denied in part as provided herein.

Dated this 21st day of November, 2005.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE